

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Bare Body Laser Spa Inc.,

Case No. 24-cv-2977 (ECT/SGE)

Plaintiff,

v.

John M. Billings and Lunabit
Capital LLC,

**REPORT AND
RECOMMENDATION**

Defendants.

On July 26, 2024, this case was transferred to this Court from the Southern District of New York. (Dkt. 58.) On February 18, 2025, Bare Body Laser Spa Inc.’s counsel filed a Motion to Withdraw as attorney without substitution pursuant to Local Rule 83.7(c). (Dkt. 94.) On February 20, 2025, the Court held a hearing on the Motion to Withdraw. (Dkt. 101.) At the hearing, the Court found good cause for counsel to withdraw and granted the Motion. (*Id.*) The Court ordered Bare Body Laser Spa Inc. (“Plaintiff”) “to retain new counsel who must file an appearance in this case within 30 days.” (*Id.*) The Court further explained that “Plaintiff cannot proceed pro se as a corporation” and that failure to obtain counsel would result in “a recommendation that this action be dismissed without prejudice for failure to prosecute.” (*Id.*)

On March 24, 2025, the Court issued a text only order giving Plaintiff an additional thirty days to retain counsel in response to an email request. (Dkt. 102.) Again, the Court informed Plaintiff that “failure to retain new counsel may result in a recommendation that this action be dismissed without prejudice for failure to prosecute.” (*Id.*) As a corporation,

Plaintiff cannot proceed without counsel. *Ackra Direct Mktg. Corp. v. Fingerhut Corp.*, 86 F.3d 852, 857 (8th Cir 1996) (“[T]he law does not allow a corporation to proceed pro se.”).

Accordingly, this Court now recommends, consistent with the previous warnings, that Plaintiff’s claims be dismissed without prejudice for failure to prosecute under Federal Rule of Civil Procedure 41(b). *See Henderson v. Renaissance Grand Hotel*, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”). The Court notes that this Report and Recommendation should not be construed as having any effect on Defendants’ counterclaims.

RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED** without prejudice under Fed. R. Civ. P. 41(b) for failure to prosecute.

Date: May 6, 2025

s/Shannon G. Elkins
SHANNON G. ELKINS
United States Magistrate Judge